

APPENDIX "A" TO PETITIONS ON APPEALS Nos. 8,823, AND 8,910.

Statute Involved.

Following are relevant portions of Sections 847, and 849, Title 28, U. S. C.

SEC. 847, TITLE 28, U. S. C.

SALES OF REAL PROPERTY UNDER ORDER OR DECREE.

(Sub-division I, enacted 1893.)

All real estate or any interest in land sold under any order or decree of any United States Court *shall be sold at public sale*, at the court house of the county, parish, or city in which the property, or the greater part thereof is located, or upon the premises or some parcel thereof located therein, as the court rendering such order or decree of sale may direct; said sale to be upon such terms and conditions as said court shall approve.

(Sub-division II, enacted 1935.)

Provided however, that if *said property* shall be situated in more than one county, state, judicial district of the United States, or judicial circuit of the United States, whether in one or more parcels,

said property shall be sold as a whole, or in separate parcels *at public sale*, at the court house of the county, parish, or city in which the greater part thereof is located or upon the premises of some parcel thereof as the court rendering such order or decree of sale may direct:

(Sub-division III, enacted 1935.)

and provided further, That if, at the time said property is offered for sale, it is in the possession of a receiver or receivers, or ancillary receiver or ancillary receivers *appointed by one or*

more District Courts of the United States, said property, wherever situated shall be sold at public sale in the district of primary jurisdiction at the court house of the county, parish, or city situated therein in which the greater part of said property in said district is located or on the premises of some parcel thereof located in such county, parish, or city therein as the court having primary jurisdiction, by such order or decree of sale may direct, unless said court shall order the sale of the properties, or one or more parcels thereof, in one or more ancillary districts.

The United States Court having jurisdiction shall be deemed to be the court first appointing any such receiver.

(Sub-division IV, enacted principally in 1934.)

After a hearing of which notice to all interested parties shall be given by publication or otherwise as the court may direct, the court may order and decree the sale of such real estate or interest in land or any part thereof at private sale for cash or other considerations and upon such terms and conditions as the court directing the sale may approve, if it finds that the best interests of the estate will be conserved thereby;

provided, That before confirmation of any private sale, the court shall appoint three disinterested persons to appraise said property, or if the court deems advisable differing groups of three appraised each to appraise properties of different classes or situated in different localities,

and no private sale shall be confirmed at a price less than two-thirds of the appraised value.

Provided further: that before confirmation of any private sale, the terms of such sale shall first be published in such newspaper or newspapers of general circulation, as the court having jurisdiction may direct, at least ten days before confirmation;

and such private sale shall not then be confirmed by said court, where a *bona fide* offer has been made under such conditions as said court may prescribe; which offer shall guarantee at least a

ten percentum increase over the offered price specified in such private sale.

The provisions of this section shall apply to sales and proceedings now pending in the courts of the United States as well as those commenced hereafter.

(Note: It is further provided that Sec. 847 does not apply to sales under Title 11, Bankruptcy, or by conservators appointed by Comptrollers of the currency.)

(As amended June 19, 1934, c. 662, 48 Stat. 1119; April 24, 1935, c. 77, Sec. 1, 49 Stat. 159; June 19, 1935, c. 276, 49 Stat. 390.) (*Subdivisional headings and italics added.*)

SEC. 849, TITLE 28, U. S. C.

SAME: NECESSITY OF NOTICE.

No sale of real estate, ordered pursuant to Sec. 847 of this Title, by any order, judgment, or decree of any United States court, other than a private sale, shall be had without previous publication of notices of such proposed sale being ordered and had once a week for at least four weeks prior to such sale in at least one newspaper printed, regularly issued, and having a general circulation in the county, state, judicial district of the United States, or judicial circuit of the United States, where the real estate proposed to be sold is situated, if such there be.

(If said property shall be situated in more than one county, etc., such notice shall be published in one or more of the counties, etc., where said property is situated, as the court may direct.)

Said notice shall be substantially in such form and contain such description of the property by reference or otherwise, as the court ordering the sale may approve. * * *

The provisions of this section shall apply to sale and proceedings now pending in the courts of the United States as well as to those commenced hereafter.

(Provisions of this Section do not apply to sales under Title 11, Bankruptcy, or by receivers or conservators appointed by the Comptroller of the Currency.)

(As amended Apr. 24, 1933, c. 77, Par. 3; 49 Stat. 163; June 19, 1935, c. 276, 49 Stat. 390.)